

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -JULY 6, 2010- -7:00 P.M.

Mayor Johnson convened the meeting at 8:06 p.m.

ROLL CALL - Present: Councilmembers deHaan, Gilmore, Matarrese, Tam  
and Mayor Johnson – 5.  
Absent: None.

AGENDA CHANGES

(10-320) Mayor Johnson announced that the Public Hearing to Consider Approving Tentative Parcel Map No. 9876 [paragraph no. 10-336] would be continued to July 20, 2010.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(10-321) Presentation of Certificates of Service

Mayor Johnson presented certificates of service to Jeff Cambra, Housing and Building Code Hearings and Appeals Board; Karen Butter, Library Board; Andrew Cunningham, Planning Board; Ann McCormick, Public Utilities Board; and Michael Krueger, Transportation Commission; and commended the following members not in attendance: Roberto Rocha, Civil Service Board; Mark Irons, Historical Advisory Board; Anne Cook, Planning Board; and Robert McFarland, Transportation Commission.

CONSENT CALENDAR

Mayor Johnson announced that the Recommendation to Accept the Quarterly Sales Tax Report [paragraph no. 10-324] and the Ordinance Approving Amendment to Master Plan [paragraph no. 10-331] were removed from the Consent Calendar for discussion.

Councilmember Tam moved approval of the remainder of the Consent Calendar.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*10-322) Minutes of the Regular City Council Meeting Held on June 15, 2010. Approved.

(\*10-323) Ratified bills in the amount of \$4,447,643.92.

(10-324) Recommendation to Accept the Quarterly Sales Tax Report for the Period Ending December 31, 2009.

Councilmember Tam stated having the City's sales tax update included in the Chamber of Commerce and Park Street and Webster Street Business Districts' newsletter would be good.

The Interim City Manager stated Hinderliter de Llamas and Associates, the new consultant, provides the newsletter to the City for free.

Councilmember Tam inquired why the Marina Village Business Park has the highest decline in sales transactions; stated a lot of the 25 top sales tax contributors are not at Marina Village, with the exception of Lucky Market.

The Deputy City Manager – Administrative Services responded that she would get back to Council on the matter.

Councilmember Tam requested clarification of the 10% decrease [in revenue] being due to a one-time allocation adjustments by the Board of Equalization.

The Interim City Manager stated cities initiate appeals to the Board of Equalization based upon sales tax possibly being attributed to another jurisdiction; every quarter has a self-correcting method; the 10% decrease is not reflective of the Livermore issue.

In response to Councilmember Tam's inquiry regarding the 10% decrease; the Interim City Manager stated the allocation is a one-time allocation adjustment based upon the evaluation for the quarter.

Councilmember Tam moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote – 5.

(\*10-325) Recommendation to Accept the Work of J.J.R. Construction, Inc. for the Repair of Portland Cement Concrete Sidewalk, Curb, Gutter, Driveway, and Minor Street Patching, Fiscal Year 2009/2010, Phase 10, No. P.W. 06-09-15. Accepted.

(\*10-326) Recommendation to Accept the Work of Schaaf & Wheeler Consulting Civil Engineers for the Assessment of the City of Alameda Sewer Pump Stations, No. P.W. 06-08-16. Accepted.

(\*10-327) Recommendation to Adopt Plans and Specifications and Authorize Call for Bids for the Cyclic Sewer Replacement Project, Phase 8, No. P.W. 01-10-03. (Public Works)

(\*10-328) Resolution No. 14463, "Requesting and Authorizing the County of Alameda to Levy a Tax on All Real and Personal Property in the City of Alameda as a Voter Approved Levy for the General Obligation Bonds Issued Pursuant to a General Election Held on November 7, 2000." Adopted.

(\*10-329) Resolution No. 14464, "Designating a City Consultant as the Authorized Representative to Examine Certain Sales and Use Tax Records." Adopted.

(\*10-330) Resolution No. 14465, "Calling for a General Municipal Election to be Consolidated with the Statewide General Election to be Held in the City of Alameda on Tuesday, November 2, 2010, and Requesting the Alameda County Board of Supervisors to Permit the Registrar of Voters to Render Specified Services to the City Relating to the Conduct of Said Election." Adopted.

(10-331) Ordinance No. 3018, "Approving Amendment to Master Plan MP05-01 for Grand Marina Village to Reduce the Number of Required Affordable Housing Units." Finally passed.

Councilmember Tam stated at the June 15, 2010 meeting, she stated that having a pro forma would be helpful to understand how Warmington Homes' bottom line would be affected with four less affordable units.

The Planning Services Manager stated that he is sorry that said information has not been included in tonight's staff report; the Warmington Homes' pro forma has not been reviewed; usually, staff does not review private project pro formas; Warmington Homes' financing is based upon 15% affordable housing; Warmington Homes has financing for the first phase; without the change to the Master Plan, Warmington Homes would not be able to continue without finding financing for remainder of the project.

Councilmember Tam stated that she thought the project was a few years in the making; Warmington Homes would have had to secure financing before 2009.

The Planning Services Manager stated Warmington Homes obtained financing under the assumption that the 25% to 15% citywide rollback would apply to the project.

Councilmember Tam inquired whether Warmington Homes obtained financing with the expectation that Council would allow a rollback to 15%.

The Planning Services Manager responded Warmington Homes thought that the project would automatically be changed with the 15% rollback; Council changed the affordable housing requirement from 25% to 15% Citywide before construction started; the City previously adopted a Master Plan which stated that the Grand Marina Project would have 25% affordable housing units.

Councilmember Gilmore stated Council did not change the affordable housing requirement until December 2009; inquired when Warmington Homes applied for financing.

Mike McClellan, Warmington Homes, responded Warmington Homes delayed the project until last year; stated Warmington Homes knew that Grand Marina was the only

project not subsidized with 25% affordable housing; Warmington Homes received financing based upon ordinance approval; financing is based on six units instead of ten; six low-cost affordable housing units would be provided to the City in very difficult times; two parks would be built in addition to other public improvements.

Councilmember Gilmore inquired whether Warmington Homes received financing after Council changed the ordinance; further inquired whether financing was pursued based on what turned out to be the mistaken impression that Warmington Homes would be entitled to the reduction.

Mr. McClellan responded in the affirmative; stated the project has lasted for six years; referenced financing relates to build out.

Councilmember Tam stated page 6 of the June 16, 2010 minutes notes that Mr. Leaman, Warmington Residential, stated Warmington Homes' financial status would be significantly impacted if Council does not grant the reduction and that Warmington Homes does not have out of pocket cash for the project; page 3 of the staff report states that "further, Warmington Residential and the Community Improvement Commission are negotiating an Exclusive Negotiation Agreement (ENA) for the disposition and redevelopment of the City's Corporation Yard and Animal Shelter as new housing, which will also include new inclusionary units"; requested that the City Attorney clarify when Council would need to authorize negotiations for an ENA with Warmington Homes for sale of property.

The City Attorney stated Council would need to authorize entering into an ENA.

Councilmember Tam inquired whether Council would not need to authorize negotiations; stated the staff report notes that the City is already negotiating an agreement; that she does not recall authorizing negotiations.

The City Attorney responded the matter couldn't be discussed [in open session]; stated closed session items are not discussed in open session.

The Interim City Manager stated the developer approached staff after Council's decision regarding the reduction [10 15%] and 2008 black October and indicated that Warmington Homes could go forward and immediately start construction if four units could be taken out; picking up the four units and jump starting the economy would not be difficult given the state of the market, the fact that construction jobs and activity is needed, and the City's focus on new projects coming down the pike with respect to inclusionary, low, and affordable housing; Council would have to approve an ENA and then have Warmington Homes consider looking at expanding the project and possibly purchasing public property on the Marina [Corporation Yard/Animal Shelter] site; one question raised at the June 15, 2010 meeting was whether the process would be defeated if four units were taken out; the City would discuss other projects in the next thirty days that would mitigate the four units and provide a larger vision for affordable units in the City.

Vice Mayor deHaan stated that Councilmember Tam has a valid concern; Council has not given direction to initiate an ENA.

The Interim City Manager stated that Council has not approved an ENA, but has discussed the terms of an ENA.

Councilmember Tam inquired whether procedurally; a closed session announcement would have reflected whether Council gave direction to enter into negotiations toward an ENA with Warmington Homes to sell the Corporate Yard and Animal Shelter property.

The City Attorney responded an appropriate reading out of a closed session item would have happened and did happen; stated any action would have been reflected; the announcement could have been that Council or CIC provided negotiating direction to the Interim City Manager; specific negotiating direction is not spelled out.

Councilmember Tam requested that the City Clerk read the reporting out announcement.

Councilmember Gilmore stated the staff report states that a reduction in affordable units is critical and is a major financial consideration for Warmington Homes; Warmington Homes may enter into negotiations with the City through another deal in the near future; that she has trouble understanding how Warmington Homes would be financially strapped on the Grand Marina project, yet thinks another project could be done.

Mr. McClellan stated Warmington Homes is doing deals; economic times are still bad; Warmington Homes believes that the right marketing level has been found; houses can be produced if the market remains the same; a legitimate land value could be paid based on the values.

The Interim City Manager stated information in the report regarding a potential second phase or another project is not dependent upon tonight's decision; inquired whether Warmington Homes could get financing today with ten affordable units, to which Mr. McClellan responded in the negative.

Councilmember Tam stated the staff report states that a future deal would be an opportunity for the City to promote inclusionary housing in accordance with policy, although the reduction would be made at this time; that she does not believe that the deals are completely separate; Warmington Homes does not have out of pocket cash to build the four units, yet there is some expectation that out of pocket cash would be available to purchase land and affordable housing at the potential new site.

Mr. McClellan stated Warmington Home projects are financed on a project-by-project basis; Warmington Homes is prepared to go forward with the next phase and build out the project; Warmington Homes is looking for other projects that would be successful for

everyone.

Vice Mayor deHaan stated opportunities were discussed at the Saturday budget workshop.

The Interim City Manager stated asset management was discussed; tonight's staff report is discussing the Corporation Yard and Animal Shelter; no action would be taken on the matter.

Vice Mayor deHaan moved final passage of the ordinance noting that there might have been some confusion.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Matarrese stated the ordinance is consistent with direction given for reducing the percentage of affordable housing; inquired whether the City would receive in lieu fees.

The Interim City Manager responded only if the project does not get built.

Councilmember Matarrese stated the City would be getting public improvements in a sorely needed area; the City would have zero affordable housing units in the project if the ordinance does not pass; six affordable units would be built [if the ordinance is adopted].

Councilmember Gilmore requested that the motion be amended to include that a report be provided on the number of jobs created by the project; stated the construction industry is down 20%.

Vice Mayor deHaan and Councilmember Matarrese agreed to amend the motion.

The Interim City Manager stated job creation should be included in staff reports; one major economic development impact would be job creation.

Mayor Johnson stated jobs would be created without borrowing or stimulus money.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers deHaan, Gilmore, Matarrese and Mayor Johnson – 5. Abstentions: Councilmember Tam – 1.

#### REGULAR AGENDA ITEMS

(10-332) Resolution No. 14466, "Appointing Jose Villaflor as a Member of the Civil Service Board." Adopted;

(10-332 A) Resolution No. 14467, "Appointing Joy Pratt as a Member of the Housing

Commission.” Adopted;

(10-332 B) Resolution No. 14468, “Appointing Catherine Atkin as a Member of the Library Board.” Adopted;

(10-332 C) Resolution No. 14469, “Appointing Eric Ibsen as a Member of the Planning Board.” Adopted; and

(10-332 D) Resolution No. 14470, “Appointing Philip Tribuzio as a Member of the Transportation Commission.” Adopted.

Councilmember Matarrese moved adoption of the resolutions.

Councilmember Tam seconded the motion, which carried by unanimous voice vote – 5.

The City Clerk administered the Oath of Office and presented certificates of appointment to Jose Villaflor, Joy Pratt, Eric Ibsen and Philip Trubuzio.

#### CITY MANAGER COMMUNICATIONS

(10-333) The Interim City Manager introduced the Interim Police Chief.

The Interim Police Chief made brief comments.

(10-334) Senior Safety Program

The Fire Safety Specialist gave a Power Point presentation.

Vice Mayor deHaan inquired how people volunteer or receive help.

The Fire Safety Specialist stated that her contact information is on flyers and brochures.

Vice Mayor deHaan inquired whether stair step light has been considered.

The Fire Safety Specialist responded in the negative; stated the Program has funding for specific things; the Fire Department is actively pursuing more grants.

In response to Mayor Johnson’s inquiry regarding a master list, the Fire Safety Specialist responded a database has been initiated.

Mayor Johnson inquired whether people can add a name to the list through the website, to which the Fire Safety Specialist responded people can contact her.

Mayor Johnson inquired whether people are willing to call her, to which the Fire Safety Specialist responded in the affirmative.

Mayor Johnson stated Boy Scouts are doing a great job; inquired whether other service

organizations would be used.

The Fire Safety Specialist responded absolutely; stated ensuring that volunteers are able to get up and down a ladder is important.

Mayor Johnson stated an injury to a senior could be permanent.

Councilmember Tam thanked the Fire Safety Specialist for the presentation; stated the Program is a great community service; currently, funding is provided through grants from the Federal Emergency Management Agency (FEMA) and the Community Development Block Grant (CDBG); inquired whether increased funding is needed.

The Fire Safety Specialist responded in the affirmative; stated the Fire Department is looking for more grant funding.

Councilmember Tam inquired how long the grant lasts.

The Fire Safety Specialist responded one year; however, the Fire Department is petitioning for five more months.

Mayor Johnson inquired whether funding could be obtained through the Healthy Home initiative, to which the Fire Safety Specialist responded that she would find out.

### REGULAR AGENDA ITEMS

(10-335) Public Hearing to Consider Resolution No. 14471, "Amending Master Fee Resolution No. 12191 to Revise Fees." Adopted.

The Deputy City manager – Administrative Services gave a brief presentation.

Vice Mayor deHaan stated the increase would not be across the board; inquired how to identify fees that would be increased.

The Deputy City Manager – Administrative Services responded said fees are called out in the staff report

Vice Mayor deHaan stated an annual review was done last year.

The Interim City Manager stated a review was done the year before last to determine cost recovery; a Consumer Price Index (CPI) has been done the last two years; usually, every three to five years, a complete fee study is done to see if charges are sufficient which has to do with employees' hourly rate; the City has not performed a complete fee study for four or five years; the CPI will hold the City for a year or two.

Vice Mayor deHaan inquired whether a complete fee study should be done next year, to which the Interim City Manager responded fiscal year 2011-2012 would be a good time.



Mayor Johnson stated Mr. Brandt commented that individual building and permit fees seem reasonable but when combined seem higher than other communities; the matter should be reviewed.

Councilmember Gilmore stated that she believes that the Planning and Building Department has reviewed the matter.

Mayor Johnson stated remodeling and on-going maintenance is a critical issue in Alameda.

The Interim City Manager stated a presentation on the issue could be provided under City Manager Communications.

Vice Mayor deHaan stated that he saw a new, detailed breakdown when obtaining a permit; the City cannot charge more fees than needed [to cover costs].

Councilmember Tam stated in 2006, Council adopted a fee schedule to streamline and make things easier for the Planning and Building and Public Works Departments; inquired whether said fees would also be affected by the 1.7% increase.

The Interim City Manager responded that she assumes the City changed the fee schedule to a per unit basis as opposed to a valuation table; some cities held on to the old method because cities made a lot of money; using the valuation table results in charging more than the cost recovery in an administration fee.

Councilmember Tam moved adoption of the resolution.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote – 5.

(10-336) Public Hearing to Consider adoption of a Resolution Approving Tentative Parcel Map No. 9876, Planning Application No. PLN09-0185 – a Parcel Map for the Proposed Subdivision of the Site at 2318 Pacific Avenue into Two Parcels. Continued.

Mayor Johnson announced that the Public Hearing was continued to July 20, 2010.

(10-337) Public Hearing to Consider Introduction of Ordinance Revising the City's Sewer Service Charges. Introduced.

The Public Works Director and Mark Hildebrand, Red Oak Consulting, gave a Power Point presentation.

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Councilmember Tam left the dais at 9:36 p.m. and returned at 9:41 p.m.

\* \* \*

Mayor Johnson inquired how air testing works.

Gisa Ju, RMC Water and Environment, responded non-toxic smoke is blown into a sewer and pathways lead smoke to the surface; crews observe what is coming out of yards; smoke cannot be detected from a basement connection.

The Public Works Director and Mr. Hildebrand continued the presentation.

In response to Mayor Johnson's inquiry, the Public Woks Director stated the current commercial additional flow rate is \$1.84 per hundred cubic foot [HCF] and would increase to \$2.81 HCF.

Councilmember Gilmore inquired whether Alameda has an additional issue with its sewer system because the water table is so high.

The Public Works Director responded inflow infiltration would increase if pipes or joints have cracks.

Councilmember Tam stated Slide 18 shows the current rate for a single family home would go from \$14.91 to \$22.09, which is a 48% increase over three years; spreading 48% over three years equals 16% per year; inquired whether she is missing something on Slide 16, which shows 14% per year.

Mr. Hildebrand responded the total amount increases to 48% over three years due to compounding.

Councilmember Matarrese complimented staff on the analysis; stated people know that sewer charges increase by cost of living but cost of living does not account for regulation changes; Emeryville's rates are less, but Emeryville does not perform sewer laterals like Alameda; inquired whether structuring residential rates similar to commercial rates has been considered for the future; stated a two bedroom, one bath home uses much less flow than a four bedroom, three and a half bath home.

Mr. Hildebrand responded a flow-based sewer rate is not commonly considered [for residential rates]; stated administrative costs and data collection could pose a hurdle.

Vice Mayor deHaan stated a lot of seniors have concerns; inquired whether other jurisdictions have some type of reduction for seniors.

The Public Works Director responded Proposition 218 prohibits using sewer rates to buy down for seniors; stated an alternative funding source, such as the General Fund, would be needed to do so.

Mr. Hildebrand stated Proposition 218 prohibits using one person's rate to pay down another person's rate.

Vice Mayor deHaan stated rates would be increased incrementally; requirements have changed; Alameda is in a better position than other cities.

The Public Works Director stated Alameda is ahead of the curve; the Environmental Protection Agency (EPA) is aware that Alameda is taking the lawsuit seriously and is immediately making changes to ensure a funding source is established to take care of anticipated improvements.

Councilmember Gilmore stated requirements coming down from the EPA are another unfunded mandate; the City has to come up with a revenue source; the requirement does not go away if funding is not found; the City would have capital costs plus EPA levied fines on top of everything.

Councilmember Matarrese moved introduction of the ordinance.

Councilmember Tam seconded the motion.

Under discussion, Councilmember Tam stated that Alameda is an island surrounded by the Bay; Bay water quality is very important; the EPA imposed standards are intended to protect the Bay water; the proposed sewer charge increase is the price to pay for high water quality.

On the call for the question, the motion carried by unanimous voice vote – 5.

#### ORAL COMMUNICATIONS, NON-AGENDA

(10-338) Don Shafer, Alameda, provided a handout and discussed parking his trailer at Independence Plaza.

Mayor Johnson inquired whether Housing Authority rules apply to Mr. Shafer's parking problem.

The Interim City Manager responded that she would contact Mr. Shafter.

(10-339) Robb Ratto, Park Street Business Association, expressed his support for the new Interim Police Chief.

(10-340) Joyce Larrick, Alameda, inquired about the Animal Shelter being closed.

The Interim City Manager stated the matter was not voted upon; if the matter goes forward, the shelter would be relocated.

(10-341) David Howard, Alameda, stated workers are in the lobby sweeping light fixtures; inquired whether anything upstairs needs sweeping.

## COUNCIL REFERRALS

None.

## COUNCIL COMMUNICATIONS

(10-342) Consideration of Mayor's nomination for appointment the Historic Advisory Board. Continued.

(10-343) Vice Mayor deHaan stated one of the top sales tax producers is Safeway Fuel; Safeway Fuel is no longer providing diesel fuel; Council mandated that diesel fuel be provided; inquired whether the mandate has a sunset.

The Interim City Manager responded that she does not know; stated that she would review the matter.

(10-344) Vice Mayor deHaan stated that he sees a marked improvement in vehicles not being stored on streets.

Mayor Johnson stated work still needs to be done on Eagle Avenue.

(10-345) Councilmember Tam stated on June 17<sup>th</sup>, she attended the League of California Cities (LCC) Environmental Quality Policy Committee Meeting; the LCC initiative which would prevent the legislature from taking property and redevelopment taxes from cities has qualified for the ballot; every legislator is very mad that the initiative is being put on the ballot; the meeting had a very heated debate regarding Assembly Bill 1898 which is Assemblywoman Julia Brownley's ban on plastic bags; the ban would require shoppers to bring reusable bags; otherwise shoppers would be charged a nickel per bag up to a twenty-five cent cap.

The Interim City Manager inquired who would get the money, to which Councilmember Tam responded the State.

Councilmember Gilmore inquired whether San Francisco enacted an ordinance on the ban.

Councilmember Tam responded in the affirmative; stated Oakland has tried to enact an ordinance, but the plastic industry demanded that an Environmental Impact Report be prepared to examine the social economic impact of the ban; the legislation has provisions for the California Environmental Quality Act (CEQA) broader than just one city; the LCC annual conference will be in San Diego in September.

(10-346) Mayor Johnson stated as a result of the investigatory reports presented to the Council and to the public this evening, she thinks it is incumbent upon all of us to strive harder now to prove not only to ourselves, but to the community we serve, that there is integrity in our public processes, and that special interests do not control Alameda;

given the involvement in this matter of John Knox White, who is alleged in the investigatory report to have illegally received confidential Closed Session materials from Councilmember Tam, and also to have participated in violations of the Brown Act, California's Local Government in the Sunshine Law, she is calling for the immediate resignation of John Knox White from the Sunshine Task Force, as she no longer believes he can service with credibility; unless the City receives Mr. Knox White's resignation prior to the next meeting of the Sunshine Task Force, she will ask the Interim City Manager to agendize his removal for City Council action as soon as possible.

#### ADJOURNMENT

There being no further business, Mayor Johnson adjourned the meeting at 10:24 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND  
PUBLIC UTILITIES BOARD (PUB) MEETING  
TUESDAY- -JULY 6, 2010- -5:00 P.M.

Mayor Johnson convened the Joint Meeting at 5:10 p.m.

Roll Call – Present: Councilmembers deHaan, Gilmore, Matarrese, Tam, and Mayor Johnson; and Board Members Gallant, Holmes, McCahan, and McCormick – 9.

Absent: Board Member Hamm – 1.

Note: Councilmember Tam was not present for Anticipated Litigation [paragraph no. 10-318 CC].

The meeting was adjourned to Closed Session to consider:

(10-317 CC/PUB) Conference With Legal Counsel – Existing Litigation; Significant Exposure to Litigation Pursuant to Subdivision (b) of Section 54956.9; Name of Cases: Vectren Communication Services v. City of Alameda, Acting By and Through Alameda Municipal Power; Bernard A. Osher, Trustee v. City of Alameda, et al City of Alameda on Behalf of Itself and Alameda Municipal Power, et al v. Nuveen Municipal High Income Opportunity Fund, et al.

(10-318 CC) Conference with Legal Counsel – Anticipated Litigation; Initiation of litigation pursuant to subdivision (c) of Section 54956.9; Number of cases: One.

(10-319 CC) Liability Claims (54956.95) – Workers' Compensation Claim; Claimant: Esperanza Sanchez; Agency Claimed Against: City of Alameda.

Following the Closed session, Mayor Johnson announced that regarding Anticipated Litigation, the City Council met in Closed Session with its Legal Counsel and outside counsel, Michael Colantuono, to discuss evidence of serious official misconduct by Councilmember Lena Tam regarding, among other things, providing attorney-client privileged, personnel, and other confidential information to SunCal, International Association of Fire Fighters, and other parties against the interest of the City of Alameda and its taxpayers, and to consider whether to enjoin Councilmember Tam to prevent further conduct of this type; two investigatory reports, each with evidence of alleged official misconduct by Councilmember Tam, have been independently prepared by outside counsel, Michael Colantuono, and provided to the District Attorney; because this matter is now before the District Attorney, and since the City has requested that the evidence be reviewed by the Alameda County Grand Jury, the City Council has deferred any decision to pursue litigation against Councilmember Tam at this time; rather, in the interest of full public disclosure and to afford Councilmember Tam the ability to review these reports, the City Council has voted to waive its attorney-client

privilege, thereby enabling release of the investigatory report this evening to the public; the City Council's decision in this regard was made in the best interest of open government here in Alameda; the City Council looks to the District Attorney and the Grand Jury to do justice in this matter; the District Attorney's office has no objection to the City Council releasing these reports; a copy of the investigatory reports will be available in the City Clerk's office; additionally, a limited number of copies are available this evening for review and will be distributed in the foyer at the conclusion of this statement; if sufficient copies are not available, please leave your name and contact information on the card in the lobby, and the City Clerk will forward a copy to you; the vote to release this information to the public was: Mayor Johnson – yes; Vice Mayor deHaan – yes; Councilmember Gilmore – yes; Councilmember Matarrese – yes; for obvious reasons, Councilmember Tam was not permitted to participate in this Closed Session;

\* \* \*

Mayor Johnson called a recess at 8:05 p.m. and reconvened the special meeting at 8:15 p.m.

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Following the recess, Mayor Johnson announced that regarding Existing Litigation, the Council/Board received a briefing on the status of the telecom litigation and provided direction to the litigation team; regarding Liability Claims, Council received a briefing from Legal Counsel and provided direction on settling the claim.

### Adjournment

There being no further business, Mayor Johnson adjourned the Joint Meeting at 7:40 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT COMMUNITY  
IMPROVEMENT COMMISSION (CIC) AND HOUSING  
AUTHORITY BOARD OF COMMISSIONERS (HABOC) MEETING  
TUESDAY- -JULY 6, 2010- -6:55 P.M.

Chair Johnson convened the meeting at 8:02 p.m. Commissioner Torrey led the Pledge of Allegiance.

ROLL CALL –

Present: Commissioners deHaan, Gilmore,  
Matarrese, Tam, Torrey and Chair Johnson – 6.

Absent: None.

CONSENT CALENDAR

Chair Johnson announced that Resolution Amending the Rules and Procedures [paragraph no. HABOC] was removed from the Consent Calendar for discussion.

Commissioner Tam moved approval of the remainder of the Consent Calendar.

Commissioner deHaan seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*HABOC) Recommendation to Approve the Minutes of the Special Board of Commissioners Meeting Held on April 6, 2010. Approved.

(\*10-50 CIC/HABOC) Recommendation to Approve a Second Amendment to the Affordable Housing Agreement Between the Housing Authority and Community Improvement Commission Extending the Term of the Agreement Two Years to July 2026. Accepted.

(HABOC) Resolution No. 819, “Amending the Rules and Procedures of the Housing Authority, Effective January 1, 2010, Changing the Time to Start Regular Meetings of the Board of Commissioners to 6:55 P.M.” Adopted.

Commissioner Torrey questioned whether changing the starting time would be logical; stated City Council meetings are supposed to start at 7:00 p.m., but start much later.

The City Clerk stated that the 6:55 p.m. start time is being proposed in order to have the HABOC meetings before City Council meetings.

Chair Johnson stated the only other way would be to have HABOC meetings after City Council meetings, which would not be a good idea.



Commissioner Gilmore moved adoption of the resolution.

Commissioner deHaan seconded the motion, which carried by the following voice vote:  
Ayes: Commissioners deHaan, Gilmore, Matarrese, Tam and Chair Johnson – 5.  
Abstentions: Commissioner Torrey – 1.

### AGENDA ITEMS

(HABOC) Recommendation to Award a Contract in the Amount of \$106,680, Including \$17,780 for Contingencies, to Replace the Brush Street Parking Lots at Esperanza to DRYCO Construction Inc., and to Authorize the Interim Executive Director to Execute the Contract.

Commissioner deHaan moved approval of the staff recommendation.

Commissioner Matarrese seconded the motion, which carried by unanimous voice vote – 6.

### ADJOURNMENT

There being no further business, Chair Johnson adjourned the meeting at 8:05 p.m.

Respectfully submitted,

Lara Weisiger, Secretary  
CIC

The agenda for this meeting was posted in accordance with the Brown Act.